

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Stephen Bent on February 10, 2010.

In the Abstract:

ABSTRACT

Provided is an expression vector capable of constitutive expression of a foreign gene in a bacterium belonging to the genus *Rhodococcus*. The vector is a constitutive expression vector for a bacterium belonging to the genus *Rhodococcus* comprising: DNA comprising a nucleotide sequence of a mutated *TipA* gene promoter where a mutation is incorporated into a -10 region sequence of a *TipA* gene promoter, the mutated *TipA* gene promoter being capable of thiostrepton-independent and constitutive expression of a gene located downstream thereof; a promoter sequence for the constitutive expression of a foreign gene, the promoter sequence being a nucleotide sequence of DNA claimed in any one of claim 1 to claim 3; a ribosome-binding site sequence located downstream of the promoter sequence; and a multiple-cloning site sequence capable of incorporating a foreign gene therein, located downstream of the ribosome-binding site sequence.

In the claims:

1. (Currently Amended) A DNA comprising a nucleotide sequence of a mutated *TipA* gene promoter where a mutation of a CAGCGT sequence to a TATAAT sequence is introduced into a -10 region sequence of a *TipA* gene promoter, wherein (a) the mutated *TipA* gene promoter is capable of thiostrepton-independent and constitutive expression of a gene located downstream thereof, and (b) said nucleotide sequence is

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~~selected from the group consisting of SEQ ID NO: 169 and
SEQ ID NO: 170.~~

5. (Currently Amended) The constitutive expression vector for a bacterium belonging to the genus *Rhodococcus* according to claim 4, wherein the vector is selected from the group consisting of pNit-RT1 by of SEQ ID NO: 101, ~~pNit-RT2 of SEQ ID NO: 102~~, pNit-RC1 of SEQ ID NO: 105, ~~pNit-RC2 of SEQ ID NO: 106~~, pNit-QT1 of SEQ ID NO: 99, ~~pNit-QT2 of SEQ ID NO: 100~~, and pNit-QC1 of SEQ ID NO: 103, ~~and pNit-QC2 of SEQ ID NO: 104.~~

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele K. Joike whose telephone number is (571)272-5915. The examiner can normally be reached on M-F, 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (571)272-0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele K. Joike/
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